IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
(Attorney Docket No. 14309US02)

In the Application of:

Jeyhan Karaoguz, et al.

Serial № 10/675,468

Filed: September 30, 2003

For: MEDIA PROCESSING SYSTEM SUPPORTING PERSONAL ADVERTISEMENT CHANNEL AND ADVERTISEMENT INSERTION INTO BROADCAST MEDIA

Examiner: Patrick A. Ryan

Group Art Unit: 2427

Confirmation № 5572

Electronically filed on June 18, 2010

APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated November 23, 2009 ("Final Office Action" or "Final OA"), in which claims 1-40 were finally rejected. The Appellants respectfully request that the Board of Patent Appeals and Interferences ("Board") reverses the final rejection of claims 1-40 of the present application. The Appellants note that this Appeal Brief is timely filed within the period for reply, including a one-month extension of time that ends on June 18, 2010.

REAL PARTY IN INTEREST
(37 C.F.R. § 41.37(c)(1)(i))

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014252, Frame 0919 in the PTO Assignment Search room.

RELATED APPEALS AND INTERFERENCES
(37 C.F.R. § 41.37(c)(1)(ii))

Appellants are unaware of any related appeals or interferences.

STATUS OF THE CLAIMS
(37 C.F.R. § 41.37(c)(1)(iii))

The present application includes pending claims 1-40, all of which stand rejected under 35 U.S.C. § 103(a). *See* the Final Office Action at page 3. The Appellants identify claims 1-40 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

STATUS OF AMENDMENTS
(37 C.F.R. § 41.37(c)(1)(iv))

The Appellants have not amended any claims subsequent to issuance of the Final Office Action. No claim amendments are pending.

SUMMARY OF CLAIMED SUBJECT MATTER
(37 C.F.R. § 41.37(c)(1)(v))

Independent claim 1 recites the following:

1. A method for providing an advertisement in a communication channel, the method comprising:

receiving[1] the advertisement for display on a television[2] within a home;

automatically displaying,[3] without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

scheduling,[4] based on input from a user provided after said displaying of said notification,[5] said received advertisement for viewing on said television within said home; and

displaying[6] media corresponding to at least a portion of said scheduled advertisement on said television based on said scheduling.

Independent claim 11 recites the following:

11. A machine-readable storage[7] having stored thereon, a computer program having at least one code section for providing an advertisement in a communication network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

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[1] *See, e.g.,* Application, p. 5, ¶ 09, lines 2-5; *see also, id.*
[2] *See, e.g., id.,* Fig. 1, ref. 106.
[3] *See, e.g., id.*, p. 13, ¶ 40, lines 7-10; *see also, id.*, p. 14, ¶ 40, lines 6-10.
[4] *See, e.g., id.*, p. 5, ¶ 05, lines 5-6.
[5] *See, e.g., id.*, p. 5, ¶ 10, lines 7-9; *see also, id.,* p. 28, ¶ 92, lines 9-10.
[6] *See, e.g., id.,* p. 5, ¶ 05, lines 6-7.
[7] *See, e.g., id.*, p. 5, ¶ 11, lines 1-5.

receiving[8] the advertisement for display on a television[9] within a home;

automatically displaying,[10] without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

scheduling,[11] based on input from a user provided after said displaying of said notification,[12] said received advertisement for viewing on said television within said home; and

displaying[13] media corresponding to at least a portion of said scheduled advertisement on said television based on said scheduling.

Independent claim 21 recites the following:

21. A system for providing an advertisement in a communication network, the system comprising:

at least one processor[14] that receives the advertisement for display on a television[15] within a home;

said at least one processor automatically displays,[16] without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

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[8] *See, e.g.,* Application, p. 5, ¶ 09, lines 2-5; *see also, id.*
[9] *See, e.g., id.,* Fig. 1, ref. 106.
[10] *See, e.g., id.*, p. 13, ¶ 40, lines 7-10; *see also, id.*, p. 14, ¶ 40, lines 6-10.
[11] *See, e.g., id.*, p. 5, ¶ 05, lines 5-6.
[12] *See, e.g., id.*, p. 5, ¶ 10, lines 7-9; *see also, id.,* p. 28, ¶ 92, lines 9-10.
[13] *See, e.g., id.,* p. 5, ¶ 05, lines 6-7.
[14] *See, e.g., id.*, Fig. 1A, ref. 101; *see also, id.,* p. 6, ¶ 12, liners 1-3; *see also, id.*, p. 10, ¶ 31, line 1 to ¶ 32, line 8; *see also, id.*, p. 14, ¶ 40, lines 1-3.
[15] *See, e.g., id.,* Fig. 1, ref. 106.

said at least one processor schedules,[17] based on input from a user provided after said displaying of said notification,[18] said received advertisement for viewing on said television within said home; and

said at least one processor causes media corresponding to at least a portion of said scheduled advertisement to be displayed on said television based on said scheduling.[19]

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL
(37 C.F.R. § 41.37(c)(1)(vi))

Claims 1-8, 11-18, 21-28 and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 7,212,730 ("Boston"), in view of U.S. 6,668,278 ("Yen"). Claims 9-10, 19-20 and 29-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Boston and Yen as applied to claim 1 and in further view of U.S. Patent Publication No. 2002/0161713 ("Oh"). Claims 32-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Boston and Yen as applied to claim 1 and in further view of U.S. Patent Publication No. 2002/0054752 ("Wood").

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[16] *See, e.g., id.*, p. 13, ¶ 40, lines 7-10; *see also, id.*, p. 14, ¶ 40, lines 6-10.
[17] *See, e.g., id.*, p. 6, ¶ 12, lines 7-8.
[18] *See, e.g., id.*, p. 5, ¶ 10, lines 7-9; *see also, id.,* p. 28, ¶ 92, lines 9-10.
[19] *See, e.g., id.*, p. 6, ¶ 12, lines 8-10.

ARGUMENT
(37 C.F.R. § 41.37(c)(1)(vii))

The MPEP states the following regarding the requirements for establishing a *prima facie* case of obviousness:

> The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." *See id.,* § 2143.01. Furthermore, in order to render the claims obvious, the asserted prior art combination must **teach or suggest each and <u>every</u> claim feature**. *See In re Royka*, 490 F.2d 981 (CCPA 1974) (to establish *prima facie* obviousness of a claimed invention, all the claim features must be taught or suggested by the prior art)[20]; *see also In re Wada and Murphy*, Appeal 2007-3733, citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (A proper obviousness determination requires that an Examiner make "a searching comparison of the claimed invention – **including all its limitations** – with the teaching of the prior art.").

[20] Emphasis added except where noted otherwise.

If a *prima facie* case of obviousness is not established, Appellants have no obligation to submit evidence of nonobviousness:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Boston and Yen Does Not Render Claims 1-8, 11-18, 21-28 and 31 Unpatentable

A. Independent Claims 1, 11 And 21

The Appellants first turn to the rejection of claims 1-8, 11-18, 21-28, and 31 as being unpatentable over Boston in view of Yen. Claim 1 recites, in part, "automatically displaying, without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television; [and] scheduling, based on input from a user provided after said displaying of said notification, said received advertisement for viewing on said television within said home." Independent claims 11 and 21 recite similar limitations.

The Final Office Action acknowledges that Boston does not disclose or suggest this claim limitation.

> Boston … does not teach automatically display, without user interaction and prior to viewing said received advertisement, a notification of the advertisement on said television, and scheduling, based on input from a user provided after said display of said notification.

(*See* Final OA, pp. 3-4.) In an attempt to overcome this deficiency, the Final Office Action relies on Yen. (*See id.,* p. 4.) As explained below, however, Yen does not overcome the acknowledged deficiencies of Boston.

Yen discloses a background element and a foreground element, which Yen describes as follows:

> The background element 121 controls the information receivers 110 so as to receive and identify information which is likely to be interesting to the recipient, to alert the foreground element 122 that such information is available, and to couple items of information, and identifiers for those items, to the foreground element 122 for selection by and presentation to the recipient.
>
> * * *
>
> The foreground element 122 is coupled to the presentation interface 130 and controls the presentation interface 130 so as to present identifiers for information to be selected by the recipient to receive selections from the recipient, and so as to present information to the recipient in response to those selections.

(Yen, 6:1-20.) With respect to the information presented, Yen states the following:

> Particular information to be presented can include any of the following:
>
> Information from broadcast services, such as broadcast radio or television.
>
> Information from internet services, such as electronic mail or web pages.
>
> Parameters for operation of the background element 121 or the foreground element 122.
>
> Selectable identifiers for information which the recipient may wish to view.

(*See id.*, 6:35-45.) Notably, this portion of Yen is silent with respect to notification of an advertisement and/or scheduling of an advertisement based on actions of a user with respect to the notification.

Yen also discloses the actions that can be taken by the recipient as follows.

> Particular actions can include any of the following:
>
> Powering the presentation interface 130 on and off.
>
> Selecting or deselecting a broadcast **television channel** or directing the presentation interface to display or not display broadcast television.
>
> Selecting or deselecting a particular information element, **such as a broadcast television show or videocassette movie**.
>
> Selecting or deselecting a particular internet service.
>
> Selecting or deselecting parameters for operation of the background element 121, such as preferences for "interesting" information items, or an interest threshold.
>
> Selecting or deselecting parameters for operation of the foreground element 122, such as a speed for sequential focus changes, or moving the focus backward or forward.

(*Id.,* 6:59 to 7:8.)[21] This portion of Yen discloses selection of broadcast television, but, again, is silent with respect to a notification of an advertisement and **scheduling** (not merely viewing) the advertisement for viewing.

Yen does disclose, however, tags and electronic program guides. (*See id.,* 7:41 to 8:14.) However, these tags and guides are for broadcast shows, but not advertisements. For example, Yen discloses the following:

> [T]he tag or electronic program guide can indicate the following types of information about **broadcast shows** and similar information items:
>
> Subject matter for information items, such as **whether those information items comprise news, weather, sports, politics, electronic mail, or opinion**. The subject matter can include other particulars regarding the content of the information items, such as which persons are featured as actors, guests, or subjects **of a broadcast show** or other

[21] Emphasis added except where noted otherwise.

> information items; which products are **advertised** or otherwise features **on a broadcast show or other information items**....

(See id., 7:41-55.) Notably, the tags/guides merely note, for example, products that are advertised **on a broadcast show**, but **not** a notification of a received advertisement itself (as opposed to the broadcast show), **and certainly not scheduling of the received advertisement based on input from a user after display of the notification of the received advertisement**.

In general, Yen does not overcome the deficiencies of Boston, in that, like Boston,[22] Yen also does not describe, teach, or suggest "automatically displaying, without user interaction and prior to viewing said received advertisement, **a notification of said received advertisement** [in contrast to a broadcast show] on said television; [and] **scheduling** [in contrast to merely viewing], **based on input from a user provided after said displaying of said notification**, **said received advertisement** for viewing on said television within said home." Independent claims 11 and 21 recite similar limitations. Because neither Boston, nor Yen, describes, teaches, or suggests these limitations, the combination of the two, by definition, also cannot describe, teach, or suggest the limitations. Thus, for at least these reasons, the Appellants respectfully submit that the proposed combination of Boston and Yen does not render claims 1, 11, 21, or any claims depending therefrom unpatentable.

[22] Note, the Final Office Action acknowledges that Boston "does not teach automatically display, without user interaction and prior to viewing said received advertisement, a notification of the advertisement on said television, and scheduling, based on input from a user provided after said display of said notification." (*See* Final Office Action, pp. 3-4.)

B. Rejection of Dependent Claims 2, 12 and 22

Claims 2, 12 and 22 depend on independent claims 1, 11 and 21, respectively. Therefore, claims 2, 12 and 22 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims, 1, 11 and 21.

In addition, the proposed combination of Boston and Yen does not disclose or suggest at least the limitation of "presenting data representative of said received advertisement in an available slot in a channel guide," as recited by the Appellants in claim 2.

In rejecting claim 2, the Final Office Action states the following:

> In reference to claims 2 and 22, the combination of Boston and Yen teach a method of and processor for presenting data representative of said received advertisement (Figure 12 described by Boston in Col. 12 Lines 18-20) in an available slot in a channel guide (detailed edit schedule 1200 of Figure 12 described by Boston in Col.12 Lines 4-12).

(*See* Final OA, p. 5.) The passage of Boston cited by the Office Action reads as follows:

> **FIG. 12 is an example of a detailed edit schedule showing details corresponding to a program segment. Detailed edit schedule 1200 includes data regarding programs such as the date the program is playing (1205), the start time of the program (1210), the end time of the program (1215), the channel on which the program is playing (1220), and the program identifier (1225). The program identifier corresponds to metadata that describes the entire program, such as that shown in FIG. 5.**
>
> Program segments 1230 include information about segments included in the program. FIG. 12 shows an example of a program with two program segments, program segment XYZ-A and segment XYZ-B. It will be appreciated by those skilled in the art that a program can be divided into

> any number of program segments. **In addition, commercial metadata is used to store information regarding the commercials that are scheduled to play during the program**.

(Boston, 12:4-20), where the specific lines cited in the Office Action are indicated in bold.) The cited passage merely discloses that commercial metadata is used to store information regarding the commercials that are **scheduled to play during the program**." The cited passage of Boston does not disclose or suggest "an **available slot** in a channel guide," let alone presenting data representative of said received advertisement in an available slot in a channel guide," as required by claim 2.

Accordingly, claim 2 is also allowable for at least this additional reason. Claims 12 and 22 recite similar limitations. Therefore, claims 12 and 22 are likewise allowable for the reasons stated above with regard to claim 2.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 2, 12 and 22.

C. Rejection of Dependent Claims 3, 13 and 23

Claims 3, 13 and 23 depend respectively on claims 2, 12 and 22, which, in turn, depend on independent claims 1, 11 and 21, respectively. Therefore, claims 3, 13 and 23 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 2, 11, 12, 21 and 22.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 3, 13 and 23.

D. Rejection of Dependent Claims 4, 14 and 24

Claims 4, 14 and 24 depend on independent claims 1, 11 and 21, respectively. Therefore, claims 4, 14 and 24 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 11 and 21.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 4, 14 and 24.

E. Rejection of Dependent Claims 5, 15 and 25

Claims 5, 15 and 25 ultimately depend on independent claims 1, 11 and 21, respectively. Therefore, claims 5, 15 and 25 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 11 and 21.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 5, 15 and 25.

F. Rejection of Dependent Claims 6, 16 and 26

Claims 6, 16 and 26 depend on independent claims 1, 11 and 21, respectively. Therefore, claims 6, 16 and 26 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 11 and 21.

In addition, the proposed combination of Boston and Yen does not disclose or suggest at least the limitation of "identifying a gap that exists in a schedule in a channel guide displayed on said television," as recited by the Appellants in claim 6.

The Final Office Action states the following in connection with the rejection of claim 6:

> In reference to claims 6 and 26, the combination of Boston and Yen teach a method of and processor for identifying a gap that exists in a schedule in a channel guide displayed on said television (step 835 of Figure 8 described by Boston in Col 8 Lines 52-67 and Col. 9 Lines 1-16; with further reference to Edit Schedule 815 implemented in Step 810 and depicted in Figure 12 described in Col. 12 Lines 4-32).

(Final OA, p. 6.) The cited passages of Boston read as follows:

> FIG. 8 is a flowchart for DVR processing of custom commercials. DVR client processing commences at 800 whereupon a program is selected to be played or recorded (step 805). Edit schedule 815 corresponding to the selected program and including commercial breaks is retrieved (step 810).
>
> At the start time of the selected program, program content 830 is received and recorded (step 820) from content provider 825, such as a cable television service provider, a satellite service, or the like. A timer is set to determine when the program is over (decision 885). If the program is over, decision 885 branches to "yes" branch 890 and processing ends at 895. On the other hand, until the program is over, decision 885 branches to "no" branch 888 whereupon another timer is set for the next scheduled commercial break during the program (decision 835). If it is not time for a commercial break, decision 835 branches to "no" branch 835 which loops back to continue receiving and recording content received from the content provider.
>
> On the other hand, if it is time for a commercial break, decision 835 branches to "yes" branch 838 whereupon commercial metadata 845 is compared with information about the client's interests and preferences from client profile 850 as well as metadata describing the current program 855. A commercial is selected based on the comparison (step 840). The selected commercial is retrieved from commercial and recorded or played for the user (step 860). A counter is incremented for the selected commercial in order to keep track of the number of times the commercial was recorded or played (step 870). The counter information is stored in data store 875 so that it can be eventually sent to the DVR service provider for analysis and reporting.

* * *

> FIG. 12 is an example of a detailed edit schedule showing details corresponding to a program segment. Detailed edit schedule 1200 includes data regarding programs such as the date the program is playing (1205), the start time of the program (1210), the end time of the program (1215), the channel on which the program is playing (1220), and the program identifier (1225). The program identifier corresponds to metadata that describes the entire program, such as that shown in FIG. 5.
>
> Program segments 1230 include information about segments included in the program. FIG. 12 shows an example of a program with two program segments, program segment XYZ-A and segment XYZ-B. It will be appreciated by those skilled in the art that a program can be divided into any number of program segments. In addition, commercial metadata is used to store information regarding the commercials that are scheduled to play during the program.
>
> Metadata for program segment XYZ-A (1240) includes the actors (1245), genre (1250), director (1255), and segment description (1260) describing the first segment. Likewise, program segment XYZ-B (1270) includes the actors (1275), genre (1280), director (1285), and segment description (1290) describing the second segment. In the example shown in FIG. 12, actor "Lisa Deanne" appears in the first segment, but not in the second segment. If a user has indicated that "Lisa Deanne" is a favorite actor, but has not selected the program as a favorite program, the user's DVR is able to record the segment wherein "Lisa Deanne" appears.

(Boston, 8:52-9:16 and 12:4-32.) Nothing in the cited passage discloses or suggests "identifying a gap that exists in a schedule in a channel guide displayed on said television."

Accordingly, claim 6 is also allowable for at least this additional reason. Claims 16 and 26 recite similar limitations. Therefore, claims 16 and 26 are likewise allowable for the reasons stated above with regard to claim 6.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 6, 16 and 26.

G. Rejection of Dependent Claims 7, 17 and 27

Claims 7, 17 and 27 depend respectively on claims 6, 16 and 26, which, in turn, depend on independent claims 1, 11 and 21, respectively. Therefore, claims 7, 17 and 27 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 6, 11, 16, 21 and 26.

In addition, the proposed combination of Boston and Yen does not disclose or suggest at least the limitation of "scheduling at least one advertisement for display at a time corresponding to said identified gap," as recited by the Appellants in claim 7. Specifically, since Boston does not "identify a gap" (*see* above re claim 6), it necessarily cannot disclose "scheduling at least one advertisement for display at a time corresponding to said identified gap," as recited in claim 7.

Accordingly, claim 7 is also allowable for at least this additional reason. Claims 17 and 27 recite similar limitations. Therefore, claims 17 and 27 are also allowable for the reasons stated above with regard to claim 7.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 17 and 27.

H. Rejection of Dependent Claims 8, 18 and 28

Claims 8, 18 and 28 depend respectively on claims 6, 16 and 26, which, in turn, depend on independent claims 1, 11 and 21, respectively. Therefore, claims 8, 18 and

28 are allowable over the proposed combination of Boston and Yen at least for the reasons stated above with regard to claims 1, 6, 11, 16, 21 and 26.

In addition, the proposed combination of Boston and Yen does not disclose or suggest at least the limitation of "granting permission to schedule said at least one advertisement for display within said identified," as recited by the Appellants in claim 8.

The Final Office Action states the following in connection with the rejection of claim 7:

> In reference to Claims 8, 18, and 28, the combination of Boston and Yen teaches a method for granting permission to schedule at least one advertisement for display within said identified gap (Boston teaches the identification of gaps in the program schedule by way of Edit Schedule 815 implemented in Step 810 and depicted in Figure 12 described in Col. 12 Lines 4-32; with further reference to steps 1010 and 1015 of Fig. 10 Col. 10 Lines 22-31. In addition, Yen teaches a method of scheduling the information for display immediately or adding the information item to a set of information items, as described in Col. 11 Lines 24-40).

(Final OA, p. 6.) The cited passages of Boston read as follows:

> FIG. 10 is a flowchart for a DVR client processing downloaded commercials that are referenced in a customized edit schedule. DVR client processing commences at 1000 whereupon a program is selected for viewing or recording on the DVR (step 1005). Edit schedule 1015 corresponding to the selected program is retrieved at step 1010. When the program begins, the DVR receives content 1030 from content provider 1025, such as a cable television service provider, a satellite service, or the like at step 1020.
>
> * * *
>
> FIG. 12 is an example of a detailed edit schedule showing details corresponding to a program segment. Detailed edit schedule 1200 includes data regarding programs such as

> the date the program is playing (1205), the start time of the program (1210), the end time of the program (1215), the channel on which the program is playing (1220), and the program identifier (1225). The program identifier corresponds to metadata that describes the entire program, such as that shown in FIG. 5.
>
> Program segments 1230 include information about segments included in the program. FIG. 12 shows an example of a program with two program segments, program segment XYZ-A and segment XYZ-B. It will be appreciated by those skilled in the art that a program can be divided into any number of program segments. In addition, commercial metadata is used to store information regarding the commercials that are scheduled to play during the program.
>
> Metadata for program segment XYZ-A (1240) includes the actors (1245), genre (1250), director (1255), and segment description (1260) describing the first segment. Likewise, program segment XYZ-B (1270) includes the actors (1275), genre (1280), director (1285), and segment description (1290) describing the second segment. In the example shown in FIG. 12, actor "Lisa Deanne" appears in the first segment, but not in the second segment. If a user has indicated that "Lisa Deanne" is a favorite actor, but has not selected the program as a favorite program, the user's DVR is able to record the segment wherein "Lisa Deanne" appears.

(Boston, 10:22-31 and 12:4-32.) Again, as with claim 6, nothing in the cited passages of Boston discloses or suggests “identifying a gap that exists in a schedule in a channel guide displayed on said television.” Since Boston does not “identify a gap,” the combination of Yen and Boston necessarily cannot disclose “granting permission to schedule said at least one advertisement for display within said identified gap,” as recited in claim 8.

Accordingly, claim 8 is allowable for at least this additional reason. Claims 18 and 28 recite similar limitations. Therefore, claims 8 and 28 are also allowable for the reasons stated above with regard to claim 8.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 18 and 28.

I. Rejection of Dependent Claim 31

Claim 31 depends on independent claim 21. Therefore, claim 31 is allowable over Boston and Yen at least for the reasons stated above with regard to claim 21.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claim 31.

II. The Proposed Combination of Boston, Yen and Oh Does Not Render Claims 9-30 Unpatentable

A. Rejection of Dependent Claims 9-10, 19-20 and 29-30

Claims 9-10, 19-20 and 29-30 depend on independent claim 1. Therefore, claims 9-10, 19-20 and 29-30 are allowable over Boston and Yen for the reasons stated above with regard to claim 1. Oh does not overcome the above noted deficiencies of Boston and Yen. Accordingly, claims 9-10, 19-20 and 29-30 are allowable over the proposed combination of Boston, Yen and Oh for the reasons stated above with regard to claim 1.

The Appellants submit that the proposed combination of Boston, Yen and Oh does not disclose or suggest at least the limitation of “offering a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said

television," as recited by the Appellants in claims 9-10 and 19-20, or "wherein said at least one processor offers a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said television, as recited by the Appellants in claims 29-30.

The Final Office Action acknowledges that the "combination of Boston and Yen do not teach a method for offering a reward for scheduling the advertisement for display within a personal advertisement channel." (*See* Final OA, p. 7.) In an attempt to overcome this deficiency, the Final Office Action relies on Oh at paragraph [0054].

However, the cited portion of Oh merely discloses incentives for **watching**, as opposed to **scheduling** in a **personal advertisement channel**, advertisement content. For example, Oh discloses "[i]f the user answers that he/she will **watch** the advertisement content(s) before the multimedia content(s) is(are) played …, the system 100 discounts the price of the multimedia content(s) by, for example, 50%...." (*See* Oh, ¶ 0054. Again, Oh merely discloses offering incentives to a user if he/she **watches** advertisement content. However, Oh does not describe, teach, or suggest offering incentives for **scheduling** display of an **advertisement** within a personal **advertisement channel**. That is, Oh does not describe, teach, or suggest "offering a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said television," as recited in claim 9, for example. Further, the Final Office Action acknowledges that neither Boston, nor Yen, describe, teach, or suggest this limitation. (*See* Final OA, 7.) Thus, the combination of the three references, by definition, cannot describe, teach, or suggest the limitation. Claims 19

and 29 recite similar limitations. For at least these additional reasons, the Appellants respectfully submit that the proposed combination of Boston, Yen, and Oh does not render claims 9, 19, and 29 unpatentable.

The Appellants reserve the right to argue additional reasons beyond those set forth above to support the allowability of claims 9-10, 19-20 and 29-30.

III. The Proposed Combination of Boston, Yen and Wood Does Not Render Claims 32-40 Unpatentable

A. Rejection of Dependent Claims 32-40

Claims 32-40 ultimately depend on one of independent claims 1, 11 or 21. Therefore, claims 32-40 are allowable over the proposed combination of Boston and Yen for the reasons discussed above in connection with claims 1, 11 and 21. Wood does not overcome the above-noted deficiencies of Boston and Yen. Accordingly, claims 32-40 are likewise allowable over the proposed combination of Boston, Yen and Wood.

IV. Conclusion

For at least the foregoing reasons, the Appellants submit that claims 1-40 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge $540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: June 18, 2010

By: /Kirk A. Vander Leest/
Kirk A. Vander Leest
Reg. No. 34,036
Attorney for Appellants

McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Telephone: (312) 775-8000
Facsimile: (312) 775-8100

(KAV)

CLAIMS APPENDIX
(37 C.F.R. § 41.37(c)(1)(viii))

1. A method for providing an advertisement in a communication channel, the method comprising:

receiving the advertisement for display on a television within a home;

automatically displaying, without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

scheduling, based on input from a user provided after said displaying of said notification, said received advertisement for viewing on said television within said home; and

displaying media corresponding to at least a portion of said scheduled advertisement on said television based on said scheduling.

2. The method according to claim 1, comprising presenting data representative of said received advertisement in an available slot in a channel guide.

3. The method according to claim 2, wherein said data representative of said received advertisement is one or more of graphical data, textural data, audio data, and/or video data.

4. The method according to claim 1, comprising establishing a user profile indicating at least a particular type of advertisement that is to be received.

5. The method according to claim 4, comprising:

determining whether data representative of said particular type of advertisement is within said established profile; and

if said data representative of said particular type of advertisement is within said established profile, receiving said particular type of advertisement.

6. The method according to claim 1, comprising identifying a gap that exists in a schedule in a channel guide displayed on said television.

7. The method according to claim 6, comprising scheduling at least one advertisement for display at a time corresponding to said identified gap.

8. The method according to claim 6, comprising granting permission to schedule said at least one advertisement for display within said identified gap.

9. The method according to claim 1, comprising offering a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said television.

10. The method according to claim 9, wherein said reward comprises one or both of free programming and/or reduced programming cost.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for providing an advertisement in a communication network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

receiving the advertisement for display on a television within a home;

receiving the advertisement for display on a television within a home;

automatically displaying, without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

scheduling, based on input from a user provided after said displaying of said notification, said received advertisement for viewing on said television within said home; and

displaying media corresponding to at least a portion of said scheduled advertisement on said television based on said scheduling.

12. The machine-readable storage according to claim 11, comprising code for presenting data representative of said received advertisement in an available slot in a channel guide.

13. The machine-readable storage according to claim 12, wherein said data representative of said received advertisement is one or more of graphical data, textural data, audio data, and/or video data.

14. The machine-readable storage according to claim 11, comprising code for establishing a user profile indicating at least a particular type of advertisement that is to be received.

15. The machine-readable storage according to claim 14, comprising:

code for determining whether data representative of said particular type of advertisement is within said established profile; and

code for receiving said particular type of advertisement if said data representative of said particular type of advertisement is within said established profile.

16. The machine-readable storage according to claim 11, comprising code for identifying a gap that exists in a schedule in a channel guide displayed on said television.

17. The machine-readable storage according to claim 16, comprising code for scheduling at least one advertisement for display at a time corresponding to said identified gap.

18. The machine-readable storage according to claim 16, comprising code for granting permission to schedule said at least one advertisement for display within said identified gap.

19. The machine-readable storage according to claim 11, comprising code for offering a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said television.

20. The machine-readable storage according to claim 19, wherein said reward comprises one or both of free programming and/or reduced programming cost.

21. A system for providing an advertisement in a communication network, the system comprising:

at least one processor that receives the advertisement for display on a television within a home;

said at least one processor automatically displays, without user interaction and prior to viewing said received advertisement, a notification of said received advertisement on said television;

said at least one processor schedules, based on input from a user provided after said displaying of said notification, said received advertisement for viewing on said television within said home; and

said at least one processor causes media corresponding to at least a portion of said scheduled advertisement to be displayed on said television based on said scheduling.

22. The system according to claim 21, wherein said at least one processor presents data representative of said received advertisement in an available slot in a channel guide.

23. The system according to claim 22, wherein said data representative of said received advertisement is one or more of graphical data, textural data, audio data, and/or video data.

24. The system according to claim 21, wherein said at least one processor establishes a user profile indicating at least a particular type of advertisement that is to be received.

25. The system according to claim 24, wherein said at least one processor:

determines whether data representative of said particular type of advertisement is within said established profile; and

receives said particular type of advertisement if said data representative of said particular type of advertisement is within said established profile.

26. The system according to claim 21, wherein said at least one processor identifies a gap that exists in a schedule in a channel guide displayed on said television.

27. The system according to claim 26, wherein said at least one processor schedules at least one advertisement for display at a time corresponding to said identified gap.

28. The system according to claim 26, wherein said at least one processor grants permission to schedule said at least one advertisement for display within said identified gap.

29. The system according to claim 21, wherein said at least one processor offers a reward for scheduling the advertisement for display within a personal advertisement channel displayed on said television.

30. The system according to claim 29, wherein said reward comprises one or both of free programming and/or reduced programming cost.

31. The system according to claim 21, wherein said at least one processor is one or more of a media processing system processor, a media management system

processor, a computer processor, media exchange software processor, and/or a media peripheral processor.

32. The method according to claim 1, comprising scheduling for display one or more personal media channels on said television.

33. The method according to claim 32, comprising authoring said one or more personal media channels by friends and family members of said user.

34. The method according to claim 32, comprising scheduling said received advertisement as an advertisement channel in a personal media channel guide.

35. The machine-readable storage according to claim 11, comprising code for scheduling for display one or more personal media channels on said television.

36. The machine-readable storage according to claim 35, comprising code for authoring said one or more personal media channels by friends and family members of said user.

37. The machine-readable storage according to claim 35, comprising code for scheduling said received advertisement as an advertisement channel in a personal media channel guide.

38. The system according to claim 21, wherein said at least one processor schedules one or more personal media channels for display on said television.

39. The system according to claim 38, wherein said one or more personal media channels are authored by friends and family members of said user.

40. The system according to claim 38, wherein said at least one processor schedules said received advertisement as an advertisement channel in a personal media channel guide.

EVIDENCE APPENDIX
(37 C.F.R. § 41.37(c)(1)(ix))

(1) United States Patent No. 7,212,730 (“Boston”), entered into record by the Examiner in the October 3, 2007 Office Action.

(2) United States App. Pub. No. 2002/0161713 (“Oh”), entered into record by the Examiner in the October 3, 2007 Office Action.

(3) United States Patent No. 7,103,908 ("Tomsen"), entered into record by the Examiner in the January 5, 2009 Office Action.

(4) United States App. Pub. No. 2002/0054752 ("Wood"), entered into record by the Examiner in the May 11, 2009 Office Action.

(5) United States Patent No. 6,668,278 ("Yen"), entered into record by the Examiner in the November 23, 2009 Office Action.

RELATED PROCEEDINGS APPENDIX
(37 C.F.R. § 41.37(c)(1)(x))

Appellants are unaware of any related appeals or interferences.